



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE, SEPTEMBER 20, 2011

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 20, 2011, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
David B. Baker	County Administrator
Todd F. Lawson	County Administrator Appointee
Susan M. Webb	Finance Director
J. Everett Moore	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

Call to Order

Mr. Vincent called the meeting to order.

M 515 11 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Approval of Minutes"; by deleting "Introduction of Proposed Zoning Ordinances"; by deleting "Executive Session - Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition"; and by deleting "Possible Action on Executive Session Items"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Corre- spondence

JILL MITCHELL, DIRECTOR, REHOBOTH COOPERATIVE
PRESCHOOL, REHOBOTH BEACH, DELAWARE.
RE: Letter in appreciation of grant.

**Redistrict-
ing Report**

Mr. Moore presented a Redistricting Report. Following is a recap of the steps that have been taken thus far in the process:

**Redistrict-
ing Report
(continued)**

On June 28, 2011, Mr. Moore reported to Council on the redistricting process. During that report, he reviewed with Council the legal requirements of redistricting and requested that the public be invited to provide written comments on the process. Council instructed Mr. Moore to proceed. After the public comments were reviewed, Mr. Moore, with the assistance of Richard Carter and college intern Ryan Adams, started drafting the maps.

Mr. Moore then reported to Council through a power point presentation on May 23, 2011. During that presentation, he gave an overview of the process and goals, some of which were based on the comments received from the public, others based on legal requirements. Mr. Moore then shared those goals publicly, which are:

- A. Impartial redistricting;**
- B. Change districts as little as possible;**
- C. Do not undo what the voters have done;**
- D. No current Council members in the same district;**
- E. Keep communities of interest together;**
- F. Look at both current and historic trends and data;**
- G. Make sure the increases in population match the increases in representation (in this case, areas east of Route 113).**

Mr. Moore then reviewed his proposals with Council and again suggested that the public be allowed an opportunity to comment. This was immediately posted on the website. Comments were allowed via e-mail or regular mail through 4:30 p.m., Friday, September 2, 2011. Due to Hurricane Irene, it was decided to extend the deadline to respond to 12:00 noon Tuesday, September 6, 2011. A press release was issued announcing the extended date, and it was immediately posted on the website.

At 12:00 noon on September 6, 2011, the website was pulled and five responses had been received by e-mail, summarized as follows:

- 1. Opposed to the 5th District retaining its current configuration.**
- 2. Questioned the makeup of the panel and why the Council was in charge, and was opposed to the District 5 redistricting.**
- 3. Did not want Bridgeville to be moved from District 2 into District 1 with Seaford.**
- 4. Did not like District 5 makeup and wanted political consideration for the beach.**
- 5. Questioned why do the redistricting, and why give the edge to**

the Democratic Party.

Mr. Moore reported that no comments were received by regular mail.

Mr. Moore noted that traditionally the only input the public has had in the process was the Public Hearing after the ordinance was drafted. However,

**Redistrict-
ing Report
(continued)**

this Council opted to have public input before the drafting occurred, input after the maps were unveiled but before the ordinance was drafted, and the Public Hearing after the ordinance is drafted.

Mr. Moore stated the next step in this process is for the ordinance to be drafted and introduced by a member of Council, followed by the scheduling of a Public Hearing. Mr. Moore advised that an ordinance could be drafted within the next two weeks and presented to Council.

Mr. Cole requested, due to major expansions in the Ocean View and Millville areas, that a closer look at these communities be taken to avoid split representation.

Mr. Moore was directed to proceed with drafting a proposed ordinance for Council's consideration.

**Casino/
Gambling
Moratorium**

Mr. Baker discussed the possible extension of Ordinance No. 2183 adopted by the Sussex County Council on March 22, 2011, entitled "AN ORDINANCE PROVIDING FOR A SIX MONTH MORATORIUM ON APPLICATIONS FOR CASINO AND/OR GAMBLING OR GAMING VENUES IN SUSSEX COUNTY." With the adoption of Ordinance No. 2183, a moratorium on casinos was simultaneously instituted. The six-month moratorium is set to expire September 22, 2011. Section 3 of the Ordinance states, "This Ordinance can be extended, modified, or terminated at any time by a majority vote of all members of the County Council of Sussex County, Delaware." Therefore, the moratorium could be extended for a period of time such as 90 days, or until Council acts on a separate ordinance providing for regulation of casinos and/or gambling or gaming venues, without requiring another Public Hearing. The moratorium will expire on September 22, 2011, unless Council votes to extend it.

Mrs. Deaver stated she would prefer that the moratorium be extended for a specific period of time.

Mr. Phillips stated that the moratorium should be extended until Council has developed an ordinance which would address rules governing casinos and/or gambling or gaming venues.

M 516 11
Extend
Casino/
Gambling
Mora-
torium

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to extend the moratorium on applications for casino and/or gambling or gaming venues in Sussex County until such time as Council acts on an ordinance providing for regulation of same.

Motion Adopted: 4 Yeas, 1 Nay.

M 516 11
(continued)

**Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Adminis-
trator's
Report

Mr. Baker read the following information in his Administrator's Report:

1. Delaware State Police Report

Attached is a copy of the Delaware State Police report for July 2011. State Police in Sussex County handled 4,744 complaints during the month of July; 1,442 criminal arrests and 4,942 traffic arrests were made during the month.

2. Job Fair – September 26, 2011

Delaware's congressional delegation will be sponsoring a Job Fair at Delaware Technical & Community College in Georgetown on September 26, 2011, from 9:00 a.m. to 3:00 p.m. Attached is information regarding this event.

3. Delaware State Emergency Medical Services Association's Award

The Sussex County EMS Department received the "Stephanie Callaway" Excellence in Para Medicine Award last week. They also received recognition from the Sussex County Volunteer Ambulance Association and Delaware State Emergency Medical Services Association for outstanding service provided by our Paramedic Department. Attached are copies of the resolutions and the award.

We wish to congratulate, again, our Paramedic Department for these honors that they have earned.

4. Charles Farrell – County Pensioner

We regret to inform you that Charles Farrell passed away on September 11, 2011. Mr. Farrell worked for the Sussex County Community Development Division as a Rehabilitation Specialist from 1985 until 1996 when he retired. He received many

compliments on his work for the Community Development Division. He was also a Korean War veteran and a Purple Heart recipient. We wish to express our condolences to Mr. Farrell's friends and family.

[Attachments to the Administrator's Report are not attachments to the minutes.]

**Delaware
State Police
Report**

Mrs. Deaver questioned if the ten additional Delaware State Police troopers that are to be assigned to Sussex County will be on-board anytime soon. Mr. Baker advised that the July 2011 report shows there are 124 troopers assigned to Sussex County, and that number should actually be 183. A telephone message was left for Major Simpson on Monday, September 20, 2011, regarding the status of additional troopers for Sussex County. Mr. Baker has not yet received a response, but will update Council as soon as additional information is received.

Mr. Phillips questioned the accuracy of the number of felony arrests (511) reported for July 2011. Mr. Baker will follow-up with Major Simpson on this number as well.

**Congres-
sional
Delegation
Sponsored
Job
Fair**

In regard to the Job Fair being sponsored by Delaware's congressional delegation on September 26, 2011, Mr. Cole asked if the County would be having a presence at the Fair. Mr. Baker advised that the Human Resources Department may have a table and possibly the Paramedic Department. Mr. Cole emphasized the importance of Sussex County visibly participating in the Job Fair and promoting potential employment opportunities with the County. Mrs. Deaver noted that September 26 is also the date for the beginning of the ongoing series "Sussex County is Open for Business" sponsored by the Sussex Economic Development Action Committee and hosted by the Sussex County Council. Mr. Baker will follow-up regarding the Job Fair.

**MOU's/
Neighbor-
hood
Stabiliza-
tion
Program 2
(NSP 2)
Funding**

Brandy Bennett, Housing Coordinator, and Brad Whaley, Assistant Director of Community Development and Housing, presented for Council's consideration two Memorandums of Understanding (MOU's), one with Sussex County Habitat for Humanity and the other with Milford Housing Development Corporation, to assist with execution of Neighborhood Stabilization Program 2 (NSP 2) funding. Ms. Bennett stated that in 2009 Council authorized the Community Development and Housing Division to enter into MOU's with these two agencies to assist with NSP 1 funding, and Sussex County was quite successful with its implementation largely due to these established nonprofit organizations. The County has assisted 28 homebuyers through NSP 1 to date, including six through the Habitat model and two through Milford Housing.

Moving from NSP 1 to NSP 2 funding, the Community Development and Housing Division would like to maintain as much consistency as possible for continued success. Other partners may include the Realtors Association, First State Community Action, NCALL, lenders, and housing inspectors that are already familiar with Sussex County's NSP. The new MOU's required for partner organizations are consistent with NSP 1 funding, with only minor modifications specific to Round 2 requirements.

M 517 11
Approve
MOU's/
NSP 2
M 517 11
(continued)

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council grant approval to enter into a Memorandum of Understanding with Sussex County Habitat for Humanity and with Milford Housing Development Corporation to acquire, rehabilitate, and sell foreclosed homes under the required guidelines of Neighborhood Stabilization Program 2 (NSP 2).

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Old
Business/
C/U
No. 1905

Under Old Business, the Council considered Conditional Use No. 1905 filed on behalf of West Rehoboth Community Land Trust.

The Planning and Zoning Commission held a Public Hearing on this application on July 14, 2011, at which time they deferred action; on July 28, the Commission discussed the application under Old Business; on September 8, the Commission recommended that the application be approved with the following conditions:

- A. This Conditional Use is contingent upon the approval of a variance from the Sussex County Board of Adjustment to allow two multi-family dwelling units on the subject property. If such a variance is not granted, this Conditional Use is null and void. The approval of this Conditional Use should not be viewed as making a determination as to whether a hardship or exceptional practical difficulty exists sufficient to grant a variance.
- B. Only two units shall be constructed upon the property.
- C. The project shall be subject to the approval of the Sussex County Engineering Department. The applicant shall be required to design, fund, and construct any upgrades to the County sewer system that are necessary to serve the two units.
- D. The building shall be designed to resemble a single-family dwelling. An example of this would be a separation of the entrances so that no two entrances are on the same side of the units.
- E. At the time of site plan approval, the applicant shall also submit

front, side, and rear elevation drawings of the building to the Planning and Zoning Commission.

- F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The site plan shall include designated parking spaces that do not require a resident to back directly onto the adjacent street.

**Old
Business/
C/U
No. 1905
(continued)**

The County Council held a Public Hearing on this application on August 2, 2011, at which time they deferred action.

Mrs. Deaver questioned the need for Condition D, stating that this condition places unnecessary constraints on the applicant. Mrs. Deaver suggested that design of the unit be left up to the applicant.

Mr. Cole agreed with the removal of Condition D.

Mr. Phillips stated the Planning and Zoning Commission must have had reason to include Condition D requiring that the building be designed to resemble a single-family dwelling, and that the issue should be explored.

**M 518 11
Remove
Condition
D/
C/U No.
1905**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to remove Condition D on Conditional Use No. 1905.

Motion Adopted: 3 Yeas; 2 Nays.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Nay; Mr. Wilson, Yea;
Mr. Vincent, Nay

**Additional
Discussion/
C/U
No. 1905**

Mr. Phillips presented the following comments as possible Findings of Fact to support denial of Conditional Use No 1905 filed on behalf of West Rehoboth Community Land Trust:

1. Within West Rehoboth itself, there have not been any duplexes built to my knowledge. Duplexes would be inconsistent with the single-family character of the community.
2. There was a duplex approved by the County for the Land Trust on another property. For whatever reason, the prior duplex was never constructed, so we should not rely on that as a development trend in the community; and, the prior conditional use application did not require a variance from the Zoning Code to get approved.
3. There was evidence presented (during the Planning and Zoning Hearing) that of the 125 lots in the area, there are 54 home sites

Additional
Discussion/
C/U
No. 1905
(continued)

and 71 vacant lots where single-family homes could be built. This data, with more than 50 percent of the lots vacant, does not support the need for additional density on a single-family undersized lot, when the surrounding community is not built out to its capacity.

4. This property, consisting of only 6,986 square feet of land, is not big enough under the Zoning Code for one unit without a variance, let alone for the requested two units. The GR zoning requires a minimum lot size of 10,000 square feet, so even one unit would require a variance to permit a minimum lot size more than 30 percent smaller than our Code requires.

To put this in perspective, C-1 zoning once permitted 12 units per acre, or a minimum of 3,630 square feet per acre. Yet we are being asked to approve two units on just 3,493 square feet each in a single-family district, not in a highway commercial corridor. Nowhere else do we permit such density.

There is an application pending before the Board of Adjustment for a variance on this property, but we should not approve a multi-family project that so dramatically fails to comply with the Zoning Code's density requirements, especially in a single-family area.

5. There is not adequate room on the undersized lot for the duplex building, plus safe off-street parking for two families. There was testimony raising these concerns during the public hearing, and there were letters and testimony from many citizens expressing other concerns.
6. I support revitalizing West Rehoboth, but not when that requires a change from the single-family nature of the immediate community and density beyond what is permitted in the Code based on the size of the lot.

Mr. Phillips also took issue with a number of comments from the Engineering Department that seem inconsistent with approving this application, i.e. that central sewer system design in the area did not consider development of West Rehoboth subdivision parcels into multi-family dwellings, and that approval of the project increases density in the area and has the potential to cause significant capacity issues and a negative impact on the sewer system capacity overall.

Mrs. Deaver noted the Engineering Department recanted their original position after realizing that two laterals serve the property.

(continued) Mr. Cole stated that many of the parcels in West Rehoboth shown as single-family home lots have more than one unit on them. Historically they have had two units, and the Engineering Department has indicated there is sufficient capacity. Single-family homes and duplexes are together in other areas, and there needs to be some consistency in the way land use is looked at in the County. A variance is needed that may or may not be granted, but from a land use approach a duplex versus a single-family home on this parcel should not be a problem.

Mr. Wilson expressed concerns regarding parking.

M 519 11 A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer
Defer action on Conditional Use No. 1905 filed on behalf of West Rehoboth
Action/ Community Land Trust.
C/U

No. 1905 Motion Adopted: 3 Yeas, 2 Nays.

Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Nay;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

Grant
Requests Mrs. Webb presented grant requests for the Council's consideration.

M 520 11 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000
Community (\$200.00 from each Community Grant Account) to Autism Delaware to
Grant sponsor the Autism Gala & Auction which supports education, public
 awareness, advocacy, and support programs.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 521 11 A Motion was made Mr. Phillips, seconded by Mr. Wilson, to give \$1,500
Community from Mr. Phillips' Community Grant Account to the Polly Branch Civic
Grant Association for After School Program expenses.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

Additional Under Additional Business, Catherine Ward, President of the League of

Business **Women Voters of Sussex County, expressed concern with the proposed redistricting map remaining the same over the southern part of Delaware. Ms. Ward requested that Council take under consideration the separation of areas such as Bethany, South Bethany, and the resort areas where there are communities of interest, and the effect that separation will have upon the representation they receive.**

APF Ordinance **Mrs. Deaver requested that representatives of Kent County and New Castle County familiar with the Adequate Public Facilities Ordinance be invited to attend the workshop in Sussex County when it is scheduled.**

M 522 11 Recess **At 11:00 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 523 11 Reconvene **At 1:30 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to reconvene.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Absent; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Public Hearing/
C/U
No. 1909** **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 1909) filed on behalf of Thomas P. Collins.**

Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 25, 2011, at which time the Commission recommended that the application be approved with the following conditions:

- 1. The use shall be limited to a beauty salon and the types of uses that typically occur in such a facility, such as limited retail sales, tanning,**

etc.

2. One lighted sign, not to exceed 32 square feet in size per side shall be permitted.
3. The site shall also comply with all the parking requirements contained in the Zoning Code.
4. The hours of operation shall be limited to 8:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 3:00 p.m. on Saturdays.

**Public
Hearing/
C/U
No. 1909
(continued)**

5. There shall be no more than two employees in addition to the applicant and his wife.
6. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 25, 2011.)

Mr. Abbott summarized the Commission's Public Hearing.

The Council found that Thomas P. Collins was present on behalf of his application and stated that his wife has operated a beauty salon in the City of Milford for 19 years; that they do not want to go through any additional rental increases; that they feel that having a salon near their home would be more cost beneficial and more effective for the business; that they will continue to reside on the premises; that the salon will have one full-time employee besides his wife and a possible part-time employee; that they do not anticipate a great deal of additional traffic; and that there will be an average of 12 to 15 customers per day.

There were no public comments and the Public Hearing was closed.

**M 524 11
Adopt
Ordinance
No. 2220/
C/U
No. 1909**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2220 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS (Conditional Use No. 1909) filed on behalf of Thomas P. Collins with the following conditions:

1. The use shall be limited to a beauty salon and the types of uses that typically occur in such a facility, such as limited retail sales, tanning, etc.
2. One lighted sign, not to exceed 32 square feet in size per side shall be permitted.
3. The site shall also comply with all the parking requirements contained in the Zoning Code.

4. The hours of operation shall be limited to 8:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 3:00 p.m. on Saturdays.
5. There shall be no more than two employees in addition to the applicant and his wife.
6. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

M 524 11
(continued)

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

**Public Hearing/
C/U
No. 1910**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOT DOG VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 39,176 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1910) filed on behalf of Charles Boehm.

Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 25, 2011, at which time the Commission recommended that the application be approved with the following conditions:

1. The hot dog cart shall not be permanently located at the site and shall remain mobile.
2. The applicant shall comply with all Health Department recommendations governing the sale of food and beverages.
3. The hot dog cart shall be parked in the location shown on the preliminary site plan, at least 40 feet from the right-of-way of Long Neck Road.
4. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 25, 2011.)

Mr. Abbott summarized the Commission’s Public Hearing.

The Council found that Charles Boehm was present on behalf of his application and stated that he intends to continue operating a hot dog vendor cart; that the cart is set back 40 feet from the right-of-way of Long Neck Road; that most of his patrons come from the retail bait and tackle shop on the site and the Short’s Marine site to the west; that the cart measures approximately six feet by seven feet; that he does not occupy the

cart, but stands outside and next to the cart; that three or four parking spaces are available for parking; that the cart is removable and he hauls the cart to and from his home to the site; that he has a license to operate the cart and it is inspected by the Delaware Division of Public Health.

There were no public comments and the Public Hearing was closed.

**M 525 11
Adopt
Ordinance
No. 2221/
C/U 1910**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2221 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOT DOG VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 39,176 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1910) filed on behalf of Charles Boehm with the following conditions:

1. The hot dog cart shall not be permanently located at the site and shall remain mobile.
2. The applicant shall comply with all Health Department recommendations governing the sale of food and beverages.
3. The hot dog cart shall be parked in the location shown on the preliminary site plan, at least 40 feet from the right-of-way of Long Neck Road.
4. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
C/Z
No. 1707**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31,980 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1707) filed on behalf of Dorothy Somerville.

Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 25, 2011, at which time the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 25, 2011.)

Mr. Abbott summarized the Commission's Public Hearing.

Public
Hearing/
C/Z
No. 1707
(continued)

The Council found that Dorothy Somerville was present on behalf of her application and stated that she is an antique dealer; that she lives in one portion of the house and displays antiques in the other; that DelDOT is taking a portion of her front yard and that her property will no longer look residential due to the close proximity of her house to the right-of-way of Route 26; that she has had a Conditional Use for the antique store for approximately 12 years; that other business uses exist in close proximity to the west and east; that she has signed an agreement with DelDOT for approximately 34 feet of her front yard for right-of-way; and that the residential use is not an appropriate use now at this location.

There were no public comments and the Public Hearing was closed.

M 526 11
Adopt
Ordinance
No. 2222/
C/Z
No. 1707

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2222 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31,980 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1707) filed on behalf of Dorothy Somerville.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Public
Hearing/
C/Z
No. 1708

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 20,000 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1708) filed on behalf of Rite Aid of Delaware.

Shane Abbott, Assistant Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 25, 2011, at which time the Commission recommended that the

application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 25, 2011.)

Mr. Abbott summarized the Commission's Public Hearing.

Public
Hearing/
C/Z
No. 1708
(continued)

Mr. Abbott distributed Exhibit Books that were provided by the applicant. The Council found that Eugene Bayard, Attorney with Wilson, Halbrook & Bayard, P.A., was present on behalf of the application with Rich Polk, Professional Engineer with Vista Design, Inc., and Sue Bechtold, Real Estate Manager for Rite Aid of Delaware, and they stated that this application is a proposed expansion to an existing C-1 General Commercial property; that the rezoning will be consistent with the character and trend of development in the area; that the site independently measures 100 feet by 200 feet; that C-1 General Commercial borders the site on two property lines; that there are no wetlands or endangered species on the property; that there is no forest land on the property; that the site is located in the Environmentally Sensitive Developing District Overlay Zone; that the intent of the application is to expand the Carillon Square Center site; that the site provides additional square footage for parking and driveways to serve a larger pharmacy; that no other additional retail square footage is proposed in the overall Carillon Square Center; that State Planning has advised that an additional application to PLUS is not necessary since the square footage is not being expanded overall; that central water will be provided by Tidewater; that sewer service will be provided by the County; that the two existing entrances on the site will be closed; that access to the site will be through the Carillon Square Center; that there are nine Rite Aid pharmacies in Sussex County with 139 employees; that the proposed use is a relocation of the existing smaller pharmacy in the Food Lion Shopping Center to the north; that the approximate size of the pharmacy when built is 14,568 square feet; that this pharmacy will have 25 employees once opened; that Rite Aid of Delaware bids out their projects for local contractors; that Rite Aid of Delaware is ready to start construction; that access to the site is from Route 24, a major highway collector roadway; that all entrances will be built prior to any request for Certificates of Occupancy; and that the pharmacy will have adequate storage space in the building and will not need POD storage units outside.

Mr. Bayard requested that the record of the Planning and Zoning Commission be made a part of the County Council record.

There were no public comments and the Public Hearing was closed.

M 527 11
Adopt

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Ordinance No. 2242 entitled "AN ORDINANCE TO AMEND THE

**Ordinance
No. 2242/
C/Z
No. 1708** **COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN
AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1
COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL
OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX
COUNTY, CONTAINING 20,000 SQUARE FEET, MORE OR LESS”
(Change of Zone No. 1708) filed on behalf of Rite Aid of Delaware.**

**M 527 11
(continued)** **Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 528 11
Adjourn** **At 2:08 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver,
to adjourn.**

**Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Susan W. Webb
Administrative Secretary**